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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,435	08/14/2001	Edward A. Brinskele	08142.0004	8123
7590 05/27/2005			EXAMINER	
Richard Rosenfeld			MERED, HABTE	
Vercuity, Inc.			ART UNIT	
500 Lanidex Plaza			PAPER NUMBER	
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Parsippany, NJ 07054			DATE MAILED: 05/27/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/928,435

Applicant(s)

EDWARD A BRINSKELE

Examiner

Habte Mered

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-94 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-94 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08/14/2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-10, 12-21, 23, 24, 51-60, 63-72, 75-83, 85-91, 93, and 94** are rejected under 35 U.S.C. 102(b) as being anticipated by Riemann et al (US 5, 892, 764), hereinafter referred to as Riemann.

*Riemann teaches an ATM LAN telephone system. Riemann's system is shown in Figure 1. Riemann's system uses CTI (Computer Telephone Integration) to implement a distributed PBX over an ATM LAN. The network server 12 in Figure 1 hosts communication services such as telephone services including fax and voice mail. The network server 12 in Figure 1 hosts communication services to the end user over an ATM Network.*

3. Regarding **claims 1, 12, 23, 24, 51, 63, 75 and 76**, Riemann discloses a method for providing a hosted service to a customer using asynchronous transfer mode (ATM), comprising the steps of:

hosting a communication service on a hosting server (**See Figure 1; Network server 12 in Figure 1 is the hosting server that hosts communication services. Based on the applicant's definition of communication services as specified in the**

**specification on Page 45 Lines 4-7, it includes all kinds of telephone services including email, voice mail and fax. In fact, the applicant equates hosted communication services to hosted PBX services. Riemann's ATM LAN Telephone system hosts telephone services. Riemann discloses his system as a hosted PBX service like the applicant. See in applicant's specification on Page 4, Paragraph 7, Line 1. Also see Riemann's Column 4, Lines 1-11 and 16-19); providing access to the hosting server via an ATM connection (See Figures 1, 2, and 3; Hosting Network Server 12 in Figure 1 is accessed via an ATM interface as shown as element 24 in Figure 2 and element 34 in Figure 3. See also Column 5, Lines 30-45 and Column 7, Lines 5-20); and allowing the customer to access the communication service at the hosting server via the ATM connection (See Figure 3, elements 32 and 34; Figure 4, elements 42 and 44).**

4. Regarding **claims 2, 13, 52, and 64**, Riemann discloses a method wherein the communication service includes private branch exchange (PBX) software. **(See Figure 7, element 85. See also Column 12, Lines 45-50)**

5. Regarding **claim 3, 14, 53, and 65**, Riemann discloses a method wherein the PBX software allows the customer to modify the communication service electronically. **(See Figure 8, element 92 and Figure 9. See also Column 13, Lines 1-10)**

6. Regarding **claims 4, 15, 54, 66, 79 and 87**, Riemann discloses a method wherein the ATM connection connects to a frame relay, a world wide web, a public switch telephone network, or a global ATM system. **(See Figure 1. Riemann's ATM LAN Telephone system interfaces in Figure 1 with PSTN 16 and Internet/WWW 19.**

**The system has the ability to interface with Frame relay networks and ATM networks using the elements in multi-purpose module shown in Figure 2.**

**Specifically they are the multi-line trunk interface 22 and ATM interface 24.)**

7. Regarding **claims 5, 16, 55, 67, 81 and 89**, Riemann discloses a method, wherein the communication service processes voice information, data information, or single network message protocol information. **(See Figure 1 and Column 4, Lines 5-25; See Figure 5 and Column 8, Lines 38-55. See also Figure 7.)**

8. Regarding **claims 6, 17, 56, 68, 82 and 90**, Riemann discloses a method wherein the voice information includes information regarding local telephone service, long distance telephone service, and public branch exchange features. **(See Figure 7, items 84, 87, and 86; See Figure 8, items 93 and 94; It is inherent to any PBX like system handling and processing a voice call to identify the call either as a long distance call or local call.)**

9. Regarding **claims 7, 18, 57, 69, 83 and 91**, Riemann discloses a method wherein the data information includes information regarding a local data network, a wide area network, a virtual private network, unified messaging, or the Internet. **(From Figures 1, 2, and 7 it is clear that Riemann's system can access the internet or any LAN or perform data exchange. It is inherent to a transaction that involves data exchange to identify its original and final destination that can be a LAN or a WAN or a VPN.)**

10. Regarding **claims 8, 19, 58 and 70**, Riemann discloses a method wherein an operating system of the hosting server includes Microsoft NT, UNIX, or LINUX. **(See**

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**Column 4, Lines 26-30. The operating system on any mid-size server has to be based on either UNIX or Microsoft products.)**

11. Regarding **claims 9, 20, 59 and 71**, Riemann discloses a method wherein the hosting step further includes an application service. **(See Column 4, Lines 61-64.**

**Riemann discloses voice mail and auto attendant are the application services running on his system.)**

12. Regarding **claims 10, 21, 60, 72, 80 and 88**, Riemann discloses wherein the hosted application service includes enterprise software or application software. **(See**

**Figure 7 that describes the server software architecture. See element 80 in Figure 7)**

13. Regarding **claims 77, 85, 93 and 94**, Riemann discloses a method for receiving a hosted service from a hosting server by a customer, comprising the steps of: receiving a communication service by the customer, provided by the hosting server using asynchronous transfer mode (ATM), wherein the customer may request a change to the communication service via electronic implementation at the hosting server; and receiving an application service, provided by the hosting server using asynchronous transfer mode (ATM), wherein the customer may request a change to the application service via electronic implementation at the hosting server. **(See Figure 8, element 92 and Figure 9. See also Column 13, Lines 1-10; See Figure 1 and Column 4, Lines 5-12)**

14. Regarding **claims 78 and 86**, Riemann discloses a method, wherein the ATM occurs by an ATM switch system. **(See Figure 1 element 14; Column 4, Lines 5-12)**

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. **Claims 11, 22, 25-50, 61, 62, 73, 74, 84, 92** are rejected under 35 U.S.C. 103(a) as being unpatentable over Riemann et al (US 5, 892, 764), hereinafter referred to as Riemann in view of DeNap et al (US 6, 490, 273), hereinafter referred to as DeNap.

17. Regarding **claims 11, 22, 29, 41, 61, 73, 84 and 92**, Riemann teaches how in a given single geographical area, customers belonging to the same ATM hub and ATM switch can communicate with each other. Riemann, however, fails to disclose how two entities belonging to two different geographical areas with each having a unique connection to a unique ATM hub and ATM switch can communicate with each other.

*DeNap discloses a method where by a full service ATM network is deployed in different phases.*

DeNap discloses wherein the customer includes a first user located at a first geographical location with a first user ATM hub (**i.e. business ATM hub 210 in Figure 2 located Business 101 in Figure 1**) and a second user located at a second geographical location with a second user ATM hub (**i.e. business hubs in Figure 3 in either Business 102 or 103 of Figure 1**), the ATM connection includes a first ATM switch system (**i.e. ATM Switch 502 in Figure 5 in Service Node 120 of Figure 1**) associated with the first user via the first user ATM hub

and a second ATM switch system (i.e. **ATM switch 502 in Figure 5 in Service Node 121 of Figure 1**) associated with the second user via the second user ATM hub, and the first user connects to the second user via an ATM network (i.e. **core ATM network 120 in Figure 1**) that connects the first ATM switch system to the second ATM switch system. (See **Figures 1, 2, 3, and 5; Column 2, Lines 30-36; and Column 9, Lines 36-40 and Lines 45-60**)

It would have been obvious to one having an ordinary skill in the art at the time of the invention was made to modify Riemann's apparatus to incorporate a means to allow two entities belonging to two different geographical areas with each having a unique connection to a unique ATM hub and ATM switch to communicate with each other, the motivation being to deploy a full service ATM network in phases and address the need for enhanced and cost effective communications between organizations located in different regions.

18. Regarding **claims 25, 37, 49, 50, 62 and 74**, the modified invention of Riemann and DeNap as taught above disclosed the aforementioned invention including a method for providing a hosted service to a customer using asynchronous transfer mode (ATM), comprising the steps of: hosting a communication service on a hosting server with an ATM hub (**Riemann shows in Figure 1 the hosting server, i.e. Network Server 12, connected to an ATM switch and an ATM hub. Technically speaking an ATM hub is a mid size ATM switch and therefore the order of the connection is immaterial. Also, DeNap shows in Figure 3 a LAN, that can house Riemann's hosting server, connected to an ATM hub and eventually connected to an ATM switch as shown**



**in Figures 1 and 5 and see also DeNap's Column 10, Lines 50-67. Therefore DeNap has established adequately that an ATM hub can be placed in between a hosting server and an ATM switch.); providing access to the hosting server via the ATM hub and an ATM switch system (See Riemann's Figure 1, see elements 15 and 14); and allowing the customer to access the communication service at the hosting server via the ATM switch system (See Riemann's Figure 1, elements 11, 18, and 14).**

19. Regarding **claims 26 and 38**, the modified invention of Riemann and DeNap as taught above disclosed the aforementioned invention including wherein the customer obtains access to the ATM switch system via a customer ATM hub. **(See Riemann's Figure 1, see elements 15 and 14)**

20. Regarding **claims 27 and 39**, the modified invention of Riemann and DeNap as taught above disclosed the aforementioned invention including wherein the communication service includes private branch exchange (PBX) software. **(See Riemann's Figure 7, element 85. See also Column 12, Lines 45-50)**

21. Regarding **claims 28 and 40**, the modified invention of Riemann and DeNap as taught above disclosed the aforementioned invention including wherein the PBX software allows the customer to modify the communication service electronically. **(See Riemann's Figure 8, element 92 and Figure 9. See also Column 13, Lines 1-10)**

22. Regarding **claims 30 and 42**, the modified invention of Riemann and DeNap as taught above disclosed the aforementioned invention including wherein the ATM switch system connects to a frame relay, a world wide web, a public switch telephone network,

or a global ATM system. **(See Riemann's Figure 1. Riemann's ATM LAN Telephone system interfaces in Figure 1 with PSTN 16 and Internet/WWW 19. The system has the ability to interface with Frame relay networks and ATM networks using the elements in multi-purpose module shown in Figure 2. Specifically they are the multi-line trunk interface 22 and ATM interface 24.)**

23. Regarding **claim 31 and 43**, the modified invention of Riemann and DeNap as taught above disclosed the aforementioned invention including wherein the communication service includes voice information, data information, or single network message protocol information. **(See Riemann's Figure 1 and Column 4, Lines 5-25; See Figure 5 and Column 8, Lines 38-55. See also Figure 7.)**

24. Regarding **claims 32 and 44**, the modified invention of Riemann and DeNap as taught above disclosed the aforementioned invention including, wherein the voice information includes information regarding local telephone service, long distance telephone service, and public branch exchange features. **(See Riemann's Figure 7, items 84, 87, and 86; See Figure 8, items 93 and 94; It is inherent to any PBX like system handling and processing a voice call to identify the call either as a long distance call or local call.)**

25. Regarding **claims 33 and 45**, the modified invention of Riemann and DeNap as taught above disclosed the aforementioned invention including wherein the data information includes information regarding a local data network, a wide area network, a virtual private network, unified messaging, or the Internet. **(From Riemann's Figures 1, 2, and 7 it is clear that Riemann's system can access the internet or any LAN**

**or perform data exchange. It is inherent to a transaction that involves data exchange to identify its original and final destination that can be a LAN or a WAN or a VPN.)**

26. Regarding **claims 34 and 46**, the modified invention of Riemann and DeNap as taught above disclosed the aforementioned invention including wherein an operating system of the hosting server includes Microsoft NT, UNIX, or LINUX. **(See Column 4, Lines 26-30. The operating system on any mid-size server has to be based on either UNIX or Microsoft products.)**

27. Regarding **claims 35 and 47**, the modified invention of Riemann and DeNap as taught above disclosed the aforementioned invention including wherein the hosting step further includes an application service. **(See Riemann's Column 4, Lines 61-64. Riemann discloses voice mail and auto attendant are the application services running on his system.)**

28. Regarding **claims 36 and 48**, the modified invention of Riemann and DeNap as taught above disclosed the aforementioned invention including wherein the application service includes enterprise software or application software. **(See Riemann's Figure 7 that describes the server software architecture. See element 80 in Figure 7)**

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Habte Mered whose telephone number is 571 272 6046. The examiner can normally be reached on Monday to Friday 9:30AM to 5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 571 272 3088. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

05-19-2005  
HM



**KENNETH VANDERPUYE**  
**PRIMARY EXAMINER**